REPLY FOR REVIEW OF THE OFFICE ACTION

These requested for review of the Office Action Summary, date mailed: 08 /15/ 06, on the application No.10/672/561 filed on September 29, 2003, conformation No.8839, Art Unit 3751,requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office Action, date mailed : 08/1/06. Is based on not addresses consistent compliance with binding of US Supreme Court ,US Court of Appeals for the Federal Circuits and its predessor courts,and as well failure by PTO to follow MPEP Guidelines.

Fact 1. Consequently, failure by PTO personnel to present evidence why applicant was not in possession of the invention as now claimed.
Vas-Cath, Inc., 935 F2d at 1563-64, 19 USPQ 2d at 1117.

Fact 2. The examiner has the initial burden, failure of presenting evidence why, a person skilled art not would not recognize that the written description of the invention provides support for the claims, which is there a strong presumption that an adequate written description of claimed invention is present in the application as filed. And not supported in the original disclosure for the newly added or amended claims.
Wertheim 541, F2d at 262, 191 USPQ at 96.

Fact 3. Consequently, rejection of an original claim for lack of written description is not rare.
In re Smith, 458 F2d 1389, 1395, 173, USPQ 679,683(CCPA 1972)

Fact 4. Each claim was not separately analyzed and given its broadest reasonable interpretation in light of and consistent with the written description.
In re Morris, 127 F.3d 1048, 1053-54,44 USPQ2d 1023, 1027(Fed. Cir. 1997).

Fact 5. The entire claims not considered, including language that expressly recited subject matter, alone or in combination with un-recited subject matter.
Genentech, Inc.v. Chiron Corp., 112 F 3d 495, 501, 42 USPQ 2d 1608, 1613(Fed. Cir 1997.

Fact 6. The entire claims not considered, including language is a term of art which means that the named elements or functions are essential, but other elements or functions may be added and still form a construct within the scope of the claim. And applying prior art under USC 102,and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are , "consisting essentially of" will be construed as equivalent to "comprising".
Ex parte Davis, 80 USPQ 448, 450 (Bd. App.1948).
PPG Industries v. Guardian Industries, 156 F3d 1351, 1354, 48 USPQ 2d 1351,1353 – 54 (Fed Cir 1998)

Fact 7. The claims rejected without evaluating each claim to determine the sufficient structures, acts, or functions are recited to make clear the scope and meaning of the claims to gain an understanding of what the inventors actually invented and intended to encompass by the claim.
Bell, et. v. Vitalink, et.55 F3d 615, 620, 34 USPQ2d 1816, 1820 (Fed. Cir. 1995).
Corning Glass Works v. Sumitomo Elec. 8868 F2d 1251,1257, 9 USPQ2d 1962, 1966(Fed. Cir. 1989).

Fact 8. The absence of same definitions or details for well-established terms or procedures was the basis of a rejection under 35 USC 112 , para. 1,for lack of adequate written description.

Fact 9 The Entire Application was not reviewed to Understand How Applicant Provides Support for the Claimed invention Including Each Element and /or step, function,etc.
Compare Rasmussen,650 F2d at 1215, 211 USPQ at 327.
Amgen,Inc. v. Chugai Pharm.Co. 927 F2d 1200, 1206, 18 USPQ2d 1016,1021 (Fed. Cir. 1991.
Wang Lab. V. Toshiba Cor.993 f2d 858,865, 26 USPQ2d 1767,1774 (Fed. Cir.1993).
Hybritech,Inc. v. Monoclonal ,et,Inc. 802 F2d 1367, 1379-80,231 USPQ81,90 (Fed. Cir.1986).

Fact 10. The examiner not presented evidence or reasons why a person skilled in the art would not recognize that the inventor had possession of the claimed invention showed that the inventor constructed an embodiment or performed a process that met all the limitations of claim and determined the invention would work for its intended purpose.

Brooklyn, New York
September 08, 2006

Respectfully submitted,

GERSH KORSINSKY,
APARTMENT 4B
1236 49th STREET
BROOKLYN, NY 11219

Tel. 1-718-435-1107